

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

DONNA JOHANSEN CROSS, <i>et al.</i>	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No.: 1:12cv1455
	)	
PROSPECT MORTGAGE, LLC, <i>et al.</i>	)	
	)	
Defendants.	)	

**MEMORANDUM IN SUPPORT OF CONSENT MOTION FOR A SINGLE HEARING  
ON THE PARTIES' MOTIONS FOR SUMMARY JUDGMENT**

Plaintiffs, Donna Johansen Cross and David Cross ("Plaintiffs"), by counsel, Defendant Prospect Mortgage, LLC ("Prospect"), by counsel, and Defendant American Portfolio Mortgage Corp. ("American"), by counsel, for their Memorandum in Support of Consent Motion for a Single Hearing on the Parties' Motion for Summary Judgment say as follows:

1. On September 10, 2013, Plaintiffs filed Plaintiffs Motion for Partial Summary Judgment (Dkt. 80), Memorandum in Support (Dkt. 81) and a Notice of Hearing for Plaintiffs' Motion for Partial Summary Judgment (Dkt. 82) for October 4, 2013, at 10:00 a.m.
2. On September 18, 2013, American filed Defendant American Portfolio Mortgage Corp's Motion for Summary Judgment (Dkt. 83), Memorandum in Support (Dkt. 84) and a Notice of Hearing (Dkt. 85) setting the matter for a hearing for October 11, 2013, at 10:00 a.m., the earliest available date for a hearing.

3. On September 20, 2013, Prospect filed Prospect Mortgage, LLC's Memorandum in Support of Motion for Summary Judgment (Dkt. 86), Memorandum in Support (Dkt. 87) and a Notice of Hearing for Prospect Mortgage, LLC's Motion for Summary Judgment (Dkt. 88) for October 11, 2013, at 10:00 a.m., the earliest available date for a hearing on its motion.

4. The Plaintiffs seek summary judgment on Counts I and II of the Amended Complaint ("Complaint") (Dkt.42) against Prospect and summary judgment against American and Prospect for the remedy of rescission. Prospect seeks summary judgment against the Plaintiffs on Counts I, II and II of the Complaint, certain monetary damages and the remedy of rescission. American seeks summary judgment against the Plaintiffs on the remedy of rescission, the only relief sought against American.

4. Setting the hearing on all the Motions for Summary Judgment on October 4, 2013, will allow consideration of issues in common to all of the motions. In the alternative, the Parties propose that the hearing on Plaintiffs' Motion for Partial Summary Judgment be continued to October 11, 2013, at 10:00 a.m., to allow all the motions for summary judgment of the Parties to be heard at the same time.

5. If this Motion is granted, Plaintiffs will file their Opposition to the Prospect and American Motions for Summary Judgment on or before September 30, 2013, and Prospect and American will each file a Reply on or before October 2, 2013. If the Court schedules October 11, 2013, as the date for a single hearing, the Parties propose that the briefing schedule remain unchanged.

6. The Parties respectfully submit that judicial economy is promoted by having all the Parties' Motions for Summary Judgment heard at the same time.

WHEREFORE, the Parties request that the hearing on Plaintiffs' Motion for Partial Summary Judgment be heard together with Prospect Mortgage, LLC's Motion for Summary Judgment and Defendant American Portfolio Mortgage Corp's Motion for Summary Judgment.

Respectfully submitted

PROSPECT MORTGAGE, LLC

By: /s/ Robert D. Perrow  
Robert D. Perrow (VSB No. 14766)  
J.P. McGuire Boyd, Jr. (VSB No. 72753)  
WILLIAMS MULLEN, PC  
P. O. Box 1320 (23218-1320)  
200 South 10<sup>th</sup> St., Suite 1600  
Richmond, VA 23219  
Facsimile: 804.420.6507  
Telephone: 804.420.6927  
Email: [bperrow@williamsmullen.com](mailto:bperrow@williamsmullen.com)  
Email: [mboyd@williamsmullen.com](mailto:mboyd@williamsmullen.com)

By: /s/ James G. Smalley  
Cyron & Miller LLP  
100 N Pitt Street, Suite 200  
Alexandria, VA 22314-3134  
Telephone: 703.299.0600  
Email: [jsmalley@cyronmiller.com](mailto:jsmalley@cyronmiller.com)

By: /s/ Thomas D. Domonoske  
Thomas E. Domonoske, Attorney at Law  
461 Lee Avenue  
Harrisonburg, VA 22802  
Telephone: 540.442.7706  
Email: [tomdomonoske@earthlink.net](mailto:tomdomonoske@earthlink.net)

By: /s/ Dale W. Pittman  
The Law Office of Dale W. Pittman, P.C.  
112-A W. Tabb Street  
Petersburg, VA 23803  
Telephone: 804.861.6000  
Email: [dale@pittmanlawoffice.com](mailto:dale@pittmanlawoffice.com)

By: /s/ F. Peter Silva, II  
1325 G Street NW, Suite 500  
Washington, DC 20005  
Telephone: 202.380.9355  
Email: [Silva@gowengroup.com](mailto:Silva@gowengroup.com)

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 24th day of September, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Thomas D. Domonoske, Esq.  
Thomas D. Domonoske, Attorney at Law  
461 Lee Ave.  
Harrisonburg, VA 22802  
Telephone: 540.442.7706  
[tomdomonoske@earthlink.net](mailto:tomdomonoske@earthlink.net)

Dale W. Pittman, Esq.  
The Law Office of Dale W. Pittman, P.C.  
112-A W. Tabb St.  
Petersburg, VA 23803  
Telephone: 804.861.6000  
[dale@pittmanlawoffice.com](mailto:dale@pittmanlawoffice.com)  
[Karen@pittmanlawoffice.com](mailto:Karen@pittmanlawoffice.com)

F. Peter Silva, II, Esq.  
1325 G Street NW, Ste. 500  
Washington, D.C. 20005  
Telephone: 202.380.9355  
[Peter.Silva@gowengroup.com](mailto:Peter.Silva@gowengroup.com)  
*Counsel for Plaintiffs*

Matthew Allan Ranck, Esq.  
Elias George Saboura-Polkovotsy, Esq.  
Eccleston and Wolf PC  
7240 Parkway Dr., 4th Fl.  
Hanover, MD 21076  
Telephone: 410.752.7474  
Email: [ranck@ewdc.com](mailto:ranck@ewdc.com)  
Email: [saboura@ewva.com](mailto:saboura@ewva.com)  
*Counsel for Saratoga Title and Escrow, Inc.*

James G. Smalley, Esq.  
Cyron & Miller LLP  
100 N Pitt St. Ste. 200  
Alexandria, VA 22314-3134  
Telephone: 703.299.0600  
Email: [jsmalley@cyronmiller.com](mailto:jsmalley@cyronmiller.com)  
*Counsel for American Portfolio Mortgage Corp*

By: /s/ Robert D. Perrow  
Robert D. Perrow (VSB No. 14766)  
J.P. McGuire Boyd, Jr. (VSB No. 72753)  
WILLIAMS MULLEN, PC  
P. O. Box 1320 (23218-1320)  
200 South 10<sup>th</sup> St., Suite 1600

Richmond, VA 23219  
Facsimile: 804.420.6507  
Telephone: 804.420.6927  
Email: [bperrow@williamsmullen.com](mailto:bperrow@williamsmullen.com)  
Email: [mboyd@williamsmullen.com](mailto:mboyd@williamsmullen.com)

23437326\_1